

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

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| Appeal of: | PCS NITROGEN FERTILIZER LP |) | |
| | Personalty Account P-093028 T-A |) | Shelby |
| | Commercial Property |) | County |
| | Tax Year 1999 |) | |

ORDER ON REVIEW OF PRELIMINARY LEGAL ISSUES

Statement of the case

On the recommendation of its staff the Board has consented to review a dispositive legal issue raised in an appeal by the assessor from the initial decision and order of the administrative judge dated January 31, 2003. The issue is whether the taxpayer may challenge a back assessment of its personalty by means of a nonstandard method of valuation after relying on standard value in filing its original personal property return. The Board considered these issues on written arguments supplied by the parties and oral arguments of counsel presented at a hearing before the Board in Nashville on April 13, 2006. Board members participating were Mr. Darnell (presiding), Mr. Button, Commissioner Chumley, Mr. Cooper, and Mr. Sims. The taxpayer, PCS Nitrogen Fertilizer, LP ("PCS"), was represented by counsel, Mr. William Penny and the assessor was represented by Assistant County Attorney Thomas Williams.

Findings of fact and conclusions of law

The findings of fact of the administrative judge are not in dispute and are adopted as findings of the Board. To summarize for purposes of this order, PCS acquired the subject property, a plant on Old Millington Road, in a 1997 stock purchase of the previous owner Arcadian Corporation. The property was reported for tax year 1999 using Arcadian's historical cost rather than the original cost as allocated by PCS. The assessor discovered PCS' allocated cost was much higher when she audited the account in 2000, and she reassessed the property at a value of over \$66 million versus the approximately \$26 million originally reported.

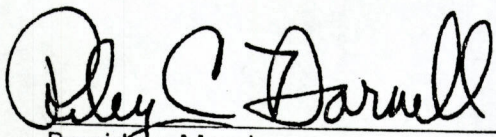
PCS had its personalty appraised at about \$27 million, and the administrative judge accepted this valuation. The assessor pointed out that the value of personalty for property taxes is presumed to be original cost less depreciation according to standard useful lives provided by statute, that a nonstandard value may be established only on the basis of adequate documentation. The assessor asserts that nonstandard value must be claimed at the time the schedule is filed and may not be claimed in defending against a

reassessment. The administrative judge determined that no statute precludes use of a nonstandard value in this situation, and the Board agrees. In the 2005 session of the Tennessee General Assembly, the law was amended to specifically permit use of nonstandard value to defend against a back assessment or reassessment. Public Chapter 201 of 2005 did not specifically address retrospective application, but since the prior law did not specifically prohibit use of nonstandard value in this context, we are inclined to view the amendment as clarifying rather than changing the law.

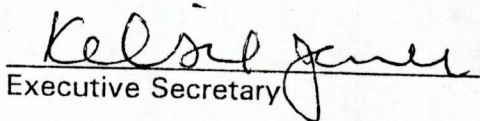
ORDER

By reason of the foregoing, it is ORDERED, that the initial decision and order of the administrative judge is affirmed as to the legal issue identified herein for review. The appeal is remanded in all other respects to the Assessment Appeals Commission for further proceedings consistent with this order.

Dated: Aug 10, 2006


Presiding Member

ATTEST:


Executive Secretary

cc: Mr. William Penny, Esq.
Ms. Rita Clark, Assessor
Mr. Thomas Williams, Esq.